United Nations CAT/C/SR.1217

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
7 May 2014

Original: English

Committee against Torture
Fifty-second session

Summary record of the 1217th meeting
Held at the Palais Wilson, Geneva, on Thursday, 1 May 2014, at 3 p.m.

Chairperson: Mr. Grossman

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Initial report of Thailand (continued) (CAT/C/THA/1, HRI/CORE/THA/2012)

1. *At the invitation of the Chairperson, the delegation of Thailand took places at the Committee table.*

2. **Mr. Savestanan** (Thailand) said that efforts had been made to incorporate the definition of torture contained in the Convention into domestic law by amending the Criminal Code and the Code of Criminal Procedure. The State party was aiming to accede to the Optional Protocol in 2015. In the meantime, all agencies could visit places of detention upon request. A committee had been established to consider ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It was expected to complete its work in 2015.

3. Consideration was being given to the establishment of an agency to monitor allegations of torture involving public officials. The National Anti-Corruption Commission did not keep data on torture. The Office of the Public Sector Anti-Corruption Commission had been set up in 2002 to combat corruption by government officials. The Department of Special Investigation had been established in 2008 to investigate particular cases involving officials and persons of influence.

4. The majority of the population in Thailand was opposed to abolishing the death penalty. Since 2004, 1,512 requests for protection had been granted under the Witnesses Protection Act, which would be amended in order to extend protection to a broader range of witnesses. With regard to remedies and redress, the State party would take into account the Committee's general comment No. 3 on the implementation of article 14 by States parties.

5. **Mr. Muntarbhorn** (Thailand) said that the State party was tending to withdraw its reservations and interpretative declarations to human rights treaties. The possibility of withdrawing all three interpretative declarations on the Convention was currently being studied.

6. **Mr. Jaiharn** (Thailand) said that definitions of the criminal offences of "torture" and "degrading treatment" were contained in draft amendments to the Criminal Code. The draft could be reviewed in order to address the Committee's concerns and include those offences committed for reasons based on discrimination and to establish that carrying out torture or degrading treatment could not be justified on the grounds of orders by superiors to do so. Under Supreme Court decision No. 1399/2508, the policeman concerned had received a 3-year suspended prison sentence. In its decision No. 706/2516, five police officers had received 2-year suspended prison sentences and had been fined. The fact that public prosecutors and injured parties could act as joint plaintiffs in criminal cases gave the latter greater direct access to evidence, thereby ensuring due process and facilitating the injured party's capacity to appeal against decisions. Complaints of torture could also be filed under section 32 of the Constitution.

7. **Ms. Kanarat** (Thailand) said that, between 1998 and 2013, seven police officers had, after internal inquiries, been found guilty of carrying out acts of torture or ill-treatment and been dismissed from service. Two had subsequently been gaoled. Four cases were pending and one had been dismissed by the public prosecution service. Between October 2012 and April 2014, 39 complaints of torture had been submitted against military personnel for investigation by the Internal Security Operations Command, Region 4, which was responsible for the southern border provinces. Compensation had been paid to victims and their family members in three of those cases. Inquiries into seven were continuing.

Only confirmed and proven cases of torture had been included in the State party's initial report, which explained the discrepancy between the figures contained therein and those contained in NGO reports. Of 252 complaints of torture and ill-treatment lodged with the Ombudsman against government officials between 2004 and 2013, 218 had been dismissed for want of evidence. Officials had been found guilty in 16 cases, and 18 remained pending.

8. **Ms. Sithidej** (Thailand) said that there were plans to issue a handbook containing key principles of the Istanbul Protocol to medical professionals nationwide, and to provide training in the protocol to around 500 medical staff from different regions. Suitably qualified professionals would be registered with the Central Institution of Forensic Science as experts in examining torture victims. It was hoped that a victim assistance system would be set up in 2015.

9. A national action plan on the treatment of women prisoners had been put into place in order to implement the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). The Thailand Institute of Justice had been established as a centre of research excellence that would also assist States in the application of the Bangkok Rules. Young offenders, for whom the Department of Juvenile Observation and Youth Protection was responsible, were held separately from adults in places of detention. Children born in places of detention could stay with their mothers for three years. Thereafter they were placed in children's institutions. The authorities did not discriminate against specific ethnic groups. The Department of Corrections had issued a manual for the treatment of Muslim inmates, for whom halal food and places of worship were also provided.

10. In principle, restraints were used to prevent prisoners from escaping, either from prison or when the prisoner was taken outside prison, or from harming themselves or others, and whenever the Ministry of Justice ordered their use. The Department of Corrections had proposed the introduction of new types of hand and ankle cuffs in order to minimize the use of shackles. Under Department guidelines, restraints could not be used as a form of punishment. Prison committees monitored the use of restraints. Under a pilot programme in Bang Kwang Central maximum-security prison, shackles had been removed from 563 prisoners, most of whom were on death row, for good behaviour.

11. Any competent agency could conduct prison visits, but, out of safety concerns, only by request. Prison overcrowding was a major concern and affected convicts and people in detention prior to or while on trial. In order to alleviate the problem, consideration was being given to dropping criminal sanctions in the case of certain offences, such as stealing. Sentence reductions and alternatives to detention, such as assignment to public works, were also employed to the same end. Because half the prison population was in detention for drug-related offences, the State party was considering ways of amending laws governing those offences. More extensive use was also being made of electronic monitoring for certain categories of convicts.

12. **Ms. Patarachoke** (Thailand) said that the State party had long employed screening mechanisms to ensure that migrants in an irregular situation who might be at risk of being tortured were not forcibly repatriated. In cooperation with the Office of the United Nations High Commissioner for Refugees, Thailand had helped more than 80,000 displaced persons resettle in third countries. Growing numbers of Rohingyas had entered Thailand in recent years. Initially the majority had been male and had been dealt with under immigration law, resulting in their detention. Increasingly, however, women and children were also arriving, posing a new humanitarian challenge to the State party. Some Rohingya immigrants might be victims of people-smuggling rings. Increased funding had been approved to improve the conditions in overcrowded detention centres. However, the State party was of the view that it should not have to bear the burden of the problem alone. International agencies were already helping but countries of origin, transit and destination must cooperate more. With

regard to the alleged practice of pushback, in some cases Thai border authorities provided irregular migrants with food, water and fuel, and allowed them to proceed to their intended destination. Allegations by a news agency in Phuket that the Royal Thai Navy had been involved in the smuggling of Rohingyas into Thailand had been found to be baseless. However, well-founded complaints would be thoroughly investigated. The Government of Laos had assured Thai authorities that repatriated Hmong migrants would not be persecuted and that they would be provided with land and financial assistance. The Thai authorities had monitored their situation and found no evidence that any had been prosecuted or faced any danger.

13. **Mr. Muntarbhorn** (Thailand) said that, of the 150,000 refugees from Myanmar living in nine camps along the Thai border with Myanmar, 3,800 were unaccompanied minors. United Nations and Thai agencies ensured that their births were registered and that they had access to education and justice. Awareness and response programmes for domestic violence were also in place in refugee camps. As yet, no voluntary repatriation programme had been set up for those refugees, many of whom were waiting for circumstances to improve in Myanmar before returning there. The situation of Rohingya refugees was rather different and required improvement. Generally men were held in detention centres and women and children in shelters. The State party sought international assistance to share the burden of that problem and also to deal with human trafficking.

14. **Ms. Jaiharn** (Thailand) said that a national policy and action plan to eliminate domestic violence were being implemented by all relevant agencies. Awareness-raising campaigns and training were conducted to change traditional attitudes and put across the message that violence against children and women was not a private issue but a public one. The Domestic Violence Victim Protection Act emphasized the rehabilitation of victims and offenders and required the perpetrators of domestic violence to pay compensation to the victims. Assistance was available to victims through a multidisciplinary approach involving crisis centres, shelters and social assistance centres. There had been a total of 963 complaints of domestic violence in 2012, of which 193 had been prosecuted. Offenders were punished in accordance with the Criminal Code.

15. Thai women of Malay ethnic origin in the southern border provinces were treated on an equal footing with their Thai counterparts in the rest of the country. A bill on the promotion of opportunities and gender equality had been proposed with a view to eliminating discrimination on the grounds of gender or sexual orientation, and a committee would be established to monitor its implementation. The proposed legislation provided for sanctions for the violation of rights, including harsher sentences if the violations were committed by officials, and the establishment of a fund to finance activities in the area of gender equality. The Government had launched projects to encourage the political participation of women and campaigns and training to raise awareness of gender-based discrimination.

16. With regard to the follow-up to the recommendations of the Special Rapporteur on trafficking in persons, especially in women and children, Thailand had deposited the instrument of ratification to the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 2013. The Immigration Bureau and the police were strengthening their data collection and enhancing inter-agency cooperation to identify and arrest human traffickers. Manuals on human trafficking had been distributed to prosecutors and the multidisciplinary team working in that area. According to data from 2013, a total of 674 cases of human trafficking had been investigated, resulting in 225 convictions.

17. **Mr. Muntarbhorn** (Thailand) said that corporal punishment in schools was prohibited, although in practice some teachers violated the law. Under the new legislation on juvenile justice, punishments meted out in institutions for youth offenders included the

withdrawal of benefits. Regulations issued pursuant to the Child Protection Act prohibited violent disciplinary measures and proposed a variety of non-violent punishments for alternative care settings. Cases of serious violence committed by parents or other relatives in the home were dealt with under general criminal law. Child protection officers were in place to intervene and remove children from violent situations. The main challenge faced in that area was the absence of general legislation prohibiting corporal punishment. The Government was working with NGOs to change attitudes and move towards a system of positive discipline.

18. **Mr. Amornkaew** (Thailand) said that the situation in the southern border provinces was a delicate one. According to the Isra news agency, there had been 2,889 bombing incidents in the area between 2004 and 2013, and there had been 3,705 casualties by March 2014. Only one article of the Martial Law Act had been applied so far, giving the military the power to search. The Government had been reviewing the necessity of applying the Emergency Decree every three months. The Internal Security Act, which was applied in two provinces, was less restrictive than the Emergency Decree and did not exempt officials from the jurisdiction of the administrative and other courts. According to a survey conducted with the participation of non-governmental organizations (NGOs), the local people still considered the application of the Emergency Decree to be necessary. Compensation of US$ 69 had been approved for those affected by the situation in the southern border provinces.

19. Under the 2008 military regulations, arrested persons must have access to their immediate family members on the first day of their arrest and other relatives within the first three days. Suspects currently underwent a physical examination by medical personnel prior to admission and on release from military detention. Torture and physical assaults were strictly prohibited during detention. The problem of access to lawyers and courts persisted. Although the authorities had the power to detain suspects for up to 30 days, the Supreme Court had recommended that detained persons should be brought to court promptly.

20. Various challenges remained with regard to detainees in unofficial locations, but the situation in Ingkayut camp had become more transparent. Military personnel operating in the southern border provinces had been instructed to adhere to the law and human rights principles. International organizations, the International Committee of the Red Cross, local and international NGOs and the media were granted access to the camp. The recently established Bureau of Legal Enforcement, Human Rights and Forensic Science under the Internal Security Operations Command had a mandate to strengthen the prevention of human rights violations.

21. With regard to the imam Yapha Kaseng case, an autopsy had concluded that his death had been the result of physical assault by military officers. The criminal case against the military officers charged with the assault was still under inquiry by the National Anti-Corruption Commission. Mr. Kaseng's wife had filed a criminal case against the perpetrators with Narathiwat Provincial Court, but it had been dismissed as the matter fell under the jurisdiction of the military court. She was currently appealing that judgement. In the civil case, the Royal Thai Army had paid damages of more than 5 million baht to the victim's wife in October 2011.

22. It had been concluded that Mr. Asharee Samaae had died as the result of physical assault by military and police officers while in custody. The public prosecutors had been requested to decide whether or not to file a criminal case against the perpetrators. If they decided not to pursue the matter, the victim's family still had the right to bring a case. In the civil case, the Internal Security Operations Command had been ordered to pay more than 500,000 baht in damages to the victim's mother, but had not yet done so as the judgement was being appealed.

23. With regard to the Tak Bai incident, the Attorney General had ordered that the criminal case against the protesters should be dismissed. In the civil case, damages had been paid out to the persons injured during the incident and State compensation of 7.5 million baht per person had been paid for the 85 persons who had died. An inquiry had concluded that the cause of death had been a lack of air during the official control at Ingkayut military camp. The army commander responsible for the incident had been transferred immediately. To prevent such a situation from reoccurring, human rights training for military and law enforcement officers in the southern border provinces had increased.

24. **Mr. Suksomjit** (Thailand) said that after the case of Por Cha Lee Rakcharoen (Mr. Billy) had been reported to the police, a fact-finding committee had been set up to look into the matter and 200 police and military personnel and volunteers had been mobilized to search for him. Efforts were ongoing in the case.

25. **Mr. Savestanan** (Thailand) said that the case of Mr. Somchai Neelapaijit was still under investigation. In 2006, four police officers had been acquitted and one major had been convicted to 3 years in prison for coercion, but had gone missing following the sentencing. State compensation had been paid to the family in 2009, and in 2012 the Cabinet had approved a remedy of 7.5 million baht. The victim's wife, who was present in the meeting room, was still protected under the witness protection programme.

26. **Ms. Gaer** (Country Rapporteur), underlining the important role played by NGOs in providing information to the Committee, said that the fact that they could be threatened with criminal defamation cases was not encouraging. She welcomed the fact that there was still time for the definition of torture to be brought into line with the Convention.

27. She stressed that, in addition to compensation, prosecution and punishment were important elements of any remedy. She would be interested to learn more about efforts to increase the number of prosecutions and to improve the capacity of investigative institutions to ensure that they could undertake prompt, impartial and independent investigations, which were fundamental to the implementation of the Convention. She wondered why the number of official complaints was much lower than that reported by NGOs. She asked about measures to ensure that the authorities followed up on cases brought to their attention by the National Human Rights Commission.

28. Referring to the cases in which police officers had received suspended sentences for inflicting bodily harm, she wondered whether there were any restrictions on their return to work in the same positions or agencies. Was a fine equivalent to US$ 20 considered adequate to convey the message that the crime of torture was a grave one? She asked whether witness protection measures were made available to criminal defendants who claimed to have been tortured during custody. Noting that the standard recommended duration for training on the Istanbul Protocol was five days, she asked whether the two-day training provided in the State party was considered appropriate and whether lawyers also received such training. She invited the delegation to provide the Committee with copies of the other training materials for law enforcement officers mentioned in the report.

29. She asked what could be done to ensure that unannounced prison visits could be conducted in order to assess real conditions of detention. She inquired about the findings of the committees established to evaluate the use of restraints in prisons. On the issue of domestic violence, she asked what steps were being taken to stop rape and abuse from being treated as compoundable offences, to remove the emphasis on mediation and to disallow discriminatory evidence in rape cases.

30. She wondered what was being done to address the conditions in which Rohingyas were being pushed back. Noting that the investigation into the allegations made by the news agency concerning trafficking by the Royal Thai Navy had been conducted by the Navy

itself, she asked whether there would be an independent investigation into the case. With regard to Hmong Laotian migrants, she asked whether there had been any investigation to confirm that there had been no violations of the Convention and, if so, what the outcome had been.

31. She asked what was being done to ensure greater transparency and awareness with respect to the new regulations issued since January 2014 in relation to internal security. Noting that the statistics in relation to the violence in the southern border provinces had been issued by a news agency, she asked whether the Government maintained its own data. She wondered whether there continued to be many violent incidents in the region. She invited the delegation to comment on the fact that several of the prominent cases mentioned had fallen under the jurisdiction of military courts and could not be brought before other courts. She asked where the army commander responsible in the Tak Bai incident had been transferred and whether he had received any disciplinary or criminal punishment. She wondered what efforts were being made to locate the police major who had disappeared following sentencing in the case of Mr. Somchai Neelapaijit.

32. **Ms. Belmir** requested additional information about the application of the provisions of the 2005 Emergency Decree. Specifically, which human rights were protected and to what extent? She asked whether officials responsible for implementing the Decree continued to enjoy impunity with regard to their actions under the Decree, and whether the Decree was implemented in accordance with the provisions of article 4 of the International Covenant on Civil and Political Rights.

33. **Mr. Modvig** said that, while training doctors to examine incoming prisoners for signs of torture and ill-treatment was a very valuable initiative, given a prison population of roughly 300,000, training 500 doctors was only a start. He advised including the topic of the health-related aspects of torture in the pregraduate medical curriculum. Welcoming the news that civil society organizations had been granted permission to monitor places of detention, he suggested that, given the large numbers of visits that could be expected to take place, memorandums of understanding be established between the institutions involved.

34. **Mr. Gaye** said that the fundamental guarantees enjoyed by persons deprived of liberty in Thailand apparently still needed strengthening. It would be useful to draw lessons from approaches considered satisfactory in other countries. For example, persons deprived of liberty should have speedy access to legal advice and medical aid, whether they had been arrested by the police or by the military.

35. **Mr. Domah** said that in defining torture in its legislation the State party should take into account article 1 of the Convention. Lawyers and members of the judiciary must receive training in the State party's obligations under the Convention, particularly the prohibition in article 15 against invoking as evidence statements obtained as a result of torture.

36. **Mr. Tugushi** said that, according to information available to the Committee, during the past year 74 suspects had been killed in the course of arrests for criminal acts. The Committee was concerned by the fact that such incidents were investigated by the police themselves, not by independent entities. In relation to the approximately 800 deaths in custody that had reportedly occurred during the past two years, of which most were classified as stemming from natural causes, he inquired about the basis for that classification. He asked how the State party ensured that investigations of alleged crimes by police officials were prompt and impartial.

37. He said that human rights defenders and NGO representatives who had communicated with the Committee or been present at the current meeting must not be subjected to reprisals by the Thai authorities. The Committee took the issue of reprisals very seriously and would react to any such incidents.

38. **The Chairperson** said that, to safeguard human rights, it was important for a country to first establish a comprehensive legal framework and ratify relevant international treaties. Next it was essential to provide relevant training to judicial officials and the citizenry at large. Furthermore, by establishing effective mechanisms for receiving complaints and bringing perpetrators to justice, the State party would signal to all actors that it took the Convention seriously and that impunity would not be tolerated.

39. **Ms. Gaer** said that, in addition to impunity, the Committee was concerned about the immunity of certain categories of perpetrators, particularly members of the military, from prosecution for actions taken under the Emergency Decree. She asked whether the State party was considering amending the provisions of the Decree to eliminate such immunity.

40. She cited several cases of disappeared individuals, regarding which the delegation had not yet provided information. The Committee hoped that all such cases would ultimately be resolved and that those proceedings would in turn lead to improvements in law enforcement and the safeguarding of human rights in Thailand.

41. **Mr. Savestanan** (Thailand) said that the authorities were concerned about the fate of Mr. Rakchongcharoen and were trying to find his remains. Under Thai law, murder charges could be pressed only when the corpse had been found. He did not foresee changes to the admittedly flawed legislation in the near future.

42. Regarding the issue of independent investigations of official wrongdoing, he said that the Royal Thai Police were the country's main law enforcement agency, with the smaller Department of Special Investigation focusing on white-collar and transnational crime. The National Anti-Corruption Commission, with its small staff, had only limited impact. He conceded that it might be necessary to change complaint procedures to enable people abused by police to talk to an impartial body.

43. **Mr. Muntarbhorn** (Thailand) said that article 4 of the Covenant on Civil and Political Rights had not been integrated into the Emergency Decree. He drew attention to differences among the various laws governing detention, including the Martial Law Act, the Emergency Decree, the Internal Security Act and the ordinary Code of Criminal Procedure. The laws permitted detention without charges for different lengths of time and under different terms. While some officials might prefer to apply ordinary criminal law even in the country's southern region, that was not currently the case. Yet there was an ongoing shift in his country towards fuller respect for human rights, and his delegation welcomed the Committee's suggestions with regard to detention in areas governed by the Emergency Decree.

44. **Ms. Sithidej** (Thailand) said that her country's Ministry of Justice, which she represented, would seriously consider the Committee's recommendations regarding training for judicial workers. She would discuss the Committee's comment about unannounced visits to prisons with the relevant department in preparation for the visit of the United Nations Special Rapporteur on torture, Mr. Juan Méndez, to Thailand in August.

45. **Ms. Patarachoke** (Thailand) said that the presence in Thailand of Rohingya migrants, who viewed Thailand as a transit country, was a constant challenge. Verification of their countries of origin was difficult and requests for help from the authorities of Myanmar, from where many of the migrants originated, had proven fruitless. The Thai authorities were continuing to look after Rohingya migrants in their custody and had recently obtained funding from Turkey to help provide medical help for those in detention centres.

46. Regarding the defamation case involving press allegations about the Thai Navy, she said that the Navy had a long-standing reputation for integrity. While it was challenging to find an appropriate balance between the right to freedom of expression and the obligation

of the press to report responsibly, her Government was working to maintain and improve the dialogue between the two sides.

47. Regarding the alleged death of a Laotian monk in custody in 2011, her Government had not found any reports of torture by the Laotian authorities but was ready to investigate further if more evidence was found, and to cooperate with Amnesty International and the Laotian authorities on the issue as needed.

48. **Mr. Amornkaew** (Thailand) said that information about the 31 January 2014 regulation on internal security arrangements in region 4 had been distributed to local administrative officials, who would convey the information to villagers in the region. The information was also being disseminated through local media. Military personnel had been informed about the details of the regulation and were aware that in performing their functions they must strictly uphold human rights principles and the rule of law. He would provide the Committee with a Thai-language version of the regulation.

49. **Ms. Jaiharn** (Thailand), answering questions about domestic violence, cited the importance of the Domestic Violence Victim Protection Act of 2007 and the amending of article 276 of the Criminal Code to broaden the definition of rape to cover victims of all sexes, all types of sexual penetration, and marital rape. The Government was working to educate the public about those issues through various awareness-raising channels, and was training law enforcement officials to better understand and tackle cases of domestic violence.

50. **Mr. Savestanan** (Thailand) said that his delegation had found the dialogue with the Committee constructive and useful and was fully aware of existing shortcomings in the manner in which torture was tackled in Thailand. Reporting to the Committee was part of a national approach to overcoming such shortcomings, ensuring that torture was not tolerated and that perpetrators were brought to justice.

51. **The Chairperson** said that the presentation of a State party's initial report to the Committee was always a historic moment. In the case of Thailand, the quality of the constructive dialogue had been enhanced by the presence of high-level officials in the delegation and by the thoroughness of its replies.

The meeting rose at 5.55 p.m.